IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R. SUBHASH REDDY

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WRIT PETITION NO : 21758 of 1994

Between:

P.V. Suryanarayana Prasad, S/o Late Pulipaka Hanumantha Rao,
R/o Brodipet, Guntur.

..... PETITIONER

AND

1 Government of A.P., Rep by Secretary for Revenue,
Secretariat, Hyderabad.
2 The Collector & District Magistrate, Guntur Dist., Guntur.
3 Government of A.P., Rep by Secretary for Education,
Secretariat, Hyderabad.
4 The Municipal Council Rep by Chairman. Guntur.
5 Tikkana Library Association, Rep by Secretary, Guntur.
(R5 is dismissed for default as per court order dt:6.1.03)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ essentially in the nature, of Mandamus or any other appropriate writ or order or direction, directing the respondents no.4 herein not to interfere with the peaceful possession and enjoyment of the land or make constructions in any manner in respect of the land situated in TS.No.540/9 & 541/1 of Guntur Town of S.P.K.H. Govt. High School pending consideration of the allotment by the first respondent on the recommendations of the second respondent and pass

Counsel for the Petitioner: MR.B.VEERABHADRA RAO

Counsel for the Respondent Nos.1 and 2 : MR.B.SREERAMULU , GP for

Revenue

Counsel for the Respondent No.3 : GP for Education.

The Court made the following :

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ORDER:

This writ petition is filed seeking a writ of Mandamus to declare the action of the fourth respondent Municipal Council in interfering with the possession and enjoyment of the land and construction being taken in T.S.No.540/9, 541/1 of Guntur town of S.P.K.H. Government High School.

It is the case of the petitioner that in the land situated in T.S. No. 540/9, 541/1 of Guntur town, there is a school building being run under the name and style of Sri Pulipaka Kamala Hanumantharaya (S.P.K.H.) High School. The said land was claimed to be the Government land. It is his further case that his late father donated a sum of Rs.67,000/- for the establishment and construction of the said school. Subsequently, the management of the school was taken over by the third respondent and the said land was allotted in favour of 3rd respondent through the proceedings of 2nd respondent in the year 1993. When the construction of the school building was made, 4th respondent did not raise any objection. But, while the school is functioning, 4th respondent started making construction of a wall, which is going to divide the school into two. On the ground that the petitioner has earlier donated a major portion in constructing the school building and as there is interference with the constructions being undertaken in the school premises, this writ petition is filed questioning such interference by the 4th respondent.

Heard both sides.

Except a sworn affidavit, there is nothing on record to show that there is interference by the Municipal Council-4th respondent with the possession and enjoyment of the

land by the petitioner. In the absence of any material showing interference, the petitioner cannot be granted with the relief sought for. More over, from the material papers filed along with the writ petition, it appears that there was a correspondence for allotment of a portion of the said land to the Education Department. In that view of the matter and more particularly in the absence of any clear factual foundation for the relief sought for, no relief can be granted by way of Mandamus to the petitioner. The writ petition is devoid of merits.

Accordingly, the writ petition is dismissed. No order as to costs.

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15th February 2005

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To

1 The Secretary for Revenue, Government of A.P.,
Secretariat, Hyderabad.

2 The Collector & District Magistrate,
Guntur Dist., Guntur.

3 The Secretary for Education, Government of A.P.,
Secretariat, Hyderabad.

4 The Chairman, Municipal Council, Guntur.

5. Two CCs to GP for Revenue, High Court Buildings, Hyderabad (OUT)

6. Two CCs to GP for Education, High Court Buildings,Hyderabad(OUT)

7. Two CD copies.

HON'BLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO : 21758 of 1994

15th February 2005